meat of four lakh people in the public sector- This is what I have slated. I have not claimed that there has been a positive growth. I, am only giving factual information. As far as retrenchment is concerned, in the Central sphere, because of the closure of certain mined the names of which I do not exactly remember, there has been retrenchment of about 80 people during the year 1992.

THE DEPUTY CHAIRMAN: Shri-mati Chadrika Abinandan Tain.

SHRI JAGESH DESAI: What about the large-scale industries?

SHRIMATI CHANDRIKA ABHI-NANBAN JAIN: Madam, I would like !• ask a very pertinent question and I am sure, the hon. Minister, Mr. Minister will give a pertinent reply. I had the opportunity of looking after the Bmploymen' Exchanges in Maharashtra as a Minister. I found that their functioning was not floolproof. I tried to improve she system of Employment Exchanges. But a lot needs to be done. I am sure, the hon. Minister, Mr. Sangma. is aware that there are a lot of lacunas when it comes *to* the func-tionior of the employment exchanges. First is Madam, the offees are houced in dilnidated building The system it-self in outdated. Registation of unem-ployed youth is made on cards. They are not maintained properly. They are misploced. Sometime,they are torn and Somtimes they are destronod. When it. comes to replcement....

THE DEPUTY CHAIRMAN: Please be bref becasue we have taken 25 minister Whatever you have said, it means, in one single sentence. "The empteyinent exchanges are very out-dateri What are you doing about that?"

SHFTMATT CHANDRIKA ABHI-NANT>AV JAIN: When it comes to interviews also, interviews are held in an out-or—turn fashion. I would request the hon. Minister that he should lock into the functioning of the em-jwplfeh exchange There is need for computerising the whole system. Are you going to invite the Ministers from all the States who are looking after then-functioning and who are concerned with the employment exchanges, and invite suggestions from them and ask them to implement those suggestions?

SHRI P. A. SANGMA: Madam, I agree with the hon. Member that the employment exchanges are not as effective as they should be. The system that is followed in the employment exchanges is not very good in the sense that it does not give the correct picture of what is happening. A lot of studies have been made into that. I have a lot of figues. I feel that the role of employment exchanges needs to be redefined. We had an internal meeting in the Ministry. I will have one more meeting with the Planning Commissien, and after we finalise our views on how to revamp and revitalise the system and make the employment exchanges more u?eful, J will be convening a meeting of the Minister of the States also

procature for getting products patented GATT

582. SHRI SHANKAR DAYAL SINGH:

SHRI CHIMANBHAI MEHTA: †

Will the Minister of COMMERCE be pleased to state:

(a) what is the procedure under GATT to get a product patented in p:e and post the year 2000.

(b) whether a product patented in developed Countries would be available to developing countries for producing such patented products;

(c) if so, how and in what manner;

(d) whether the company which has availed poauct patent rights in developed countries would be the sole authority

† The question was actually asked on the floor to the House bv Shri Chimon-

issue licence, in all circumstances, for the production of patented product in developing countries;

(e) what is the remedy if the patent nelder in developed country does not issue licence to a company of developing country or demand exorbitant price for such licence;

(f) wheher unlimited powers are given to patenting company to charge exorbii lant price for the prduction of patented product or guidelines would be prepared and made applicable universally; and

(g) now the patent regime under WTO authority is beneficial or harmful to India as compared Jo the present patent regime?

THE MINISTER OF COMMERCE (SHRI PRANAB MUKHERJEE): (a) to (g) A statement is laid on the Table of the House.

Statement

The provisions of the Urguay Rround Agreements, including the Agreement on TRIPs, lay down the basic features and have to be given effect to through separate national legislation. Government propose to set up an export group to recommend the precise changes to be brought about in the Indian Patents Act.

All patents are to be granted under national legislations and not under the TRIPs Agreement. Developing countries have been provided a transition period of 'en years for providing product patents in areas of technology not to protectable in their territories on the general date of application of The Agreement However, pipe-line protection is to be provided in respect of pharmaceuticals and agricultural chemical products. No new protection is to been provided for producte which are oatented before entry into force of the WTO Agreement

Patents issued in other countries, developing or developed, would not as such loafer any rights in India. Only Indian pelents Issued under Indian law, would samfor 'upoa fee holder fee right i© prevent thnd parties not having the owners' consent from the acts of making, using, offering for sale, selling or ik-porting for these purposes the product for which a patent has been issued. Exploitation of patents developed abroad and also granted in Indian will normally be possible on the basis of grant of a licence by the patent-holder.

The patent right can, however, be laken away, inter alia in instances of adjudicated cases of anti-competitive pre-tiges and in cases of national emergency or for production of items for non- commercial public use through the grant of compulsory licences by the Government.

The TRIPs Agreement does mot prohibit the use of price control measures by member-States.

It is generally recognised that systen for the protection of intellectual property dights is needed as an incentive to en-courage innovative effort.

SHRI CHIMANBHAI MEHTA: Madam, the answer given in the statement is elaborate and it removes the doubt to the extent, that they are treated on the basis of national legislation.

SHRI CHATURANAN MISHRA: And no supplementary is required.

SHRI CHIMANBHAI MEHTA: Now some suplementary is required for your benefit, Mr. Chaturanan. Either you are having a doubt or you are a victim of disinformation. Therefore, my question re lates to a point emanating from a news-item which appeared on the front page of the Times of India five days back, titled "Rural innovators to apply for patent pro tection in US". Some rural agricu'turisfJ want to get their medicines and herbal pesticides to be patented in U.S. for innovations. But I was a little confused. Now, the WTO is coming into existence. Suppose, an Indian innovator wants to get his product patented in India. And he does. Under the GATT Treats, would it be required, for that Indian innovator to go to US or other Ban>

pcan Countries to get his prbduct patented over there, despite his product being patented in India? Would it be applicable throughout the country?

SHRI PRANAB MUKHERJEE: Madam, so far as these things are concerned, as I mentioned on an earlier occasion, it is not self-executing. The rights of the patent holders have been indicated in the TRIPS Agreement. But how those rights will be protected, what the condi-lionalities will be, what the procedure will *be*—all these are to be determined by the national legislation in our case and so also in others cases. Therefore, from 1.1.95, when the World Trade Organisation is supposed to come into existence,... if somebody claims patentability of his invention and satisfies three conditions, that is, the newness, the invention, the industrial applicability, and if he gets the marketing approval and patenting approval as per the conditions laid down by the laws of the country where he is applying for the patentability, he will be entitled to have a patenting right. So far as India is concerned, in Iertain areas, particularly in three areas, we do not allow the product patentability. Therefore, if somebody comes and makes an application, "I want a product patenting right", we will have *to* say, "As per our law today we cannot give you that. We are keeping your application in the black box and when our laws will be amended we will consider whether your application could be considered or not." Secondly, if he says "Yes, I have got a patenting right in some other country and I have also got the marketing right", then we will have to say independently, keening his application pending, "about marketing right we shall have to examine whether as per our laws we could allow you to have marketabislity-and if it is allowed then you will have the patenting right."

SHRI CHIMANBHAI MEHTA:' Sir, I did not ask of you that My questions war that' today....

THE DEPUTY CHAIRMAN; Your sencond supplementary.

SHRI CHIMANBHA1 MEHTA: No, Madam, The first question is not answered: otherwise, I will not be able to take the second one. It is related to that. The patent right is registered here. The product is registered here in India. Would that patent holder, to whom you give the right, have the same right throught the world under the WTO? That is my question.

SHRI PRANAB MUKHERJEE: Yes. That is obvious That is the law. He will have the right. Once it is patented he will have the right throughout the world.

THE DEPUTY CHAIRMAN: It is answered.

SHRI CHIMANBHAI MEHTA: That is all right. That is clear now. Another point that arises is that the patent holder anywhere, whether in India or outside, is not parting with the right of production to other manufacturers in various other countries. There a question might arise that a person in another country might copy it and make profits because the parent companies are not providing patent right to other people in other countries. In that case it will be a violation according *to* the WTO formula. Now the question is: Who would do the adjudication? Who is going to adjudicate in this matter, whether the WTO or the national courts? This is the question.

SHRI PRANAB MUKHERJEE: Madam, now if a patent holder finds that his right has been violated by a country, by somebody, and if he finds that the law of that particular country is giving him protection but the law is not implemented, then he can take the normal judicial process, go to the law court and make an application to the court as per the law of the land saying that as per the law of the land he is given protection.

SHRIMATI RENUKA CHOWDH-' URY: Of which countery

SHRI PRANAB MUKHERJEE: Under the law' of the country where it is patented. Suppose a Canadian has a patenting right and Indian law gives him protection. If somebody is violating his right he can apply to the Indian courts saying, "You protect my right". But if it happens, that is, if he challenges the law which itself is not giving in the right, then the coun'ry to which he belongs can go to the WTO for the dispute settlement through the dispute settlement mechanism. As an individual he cannot go. The country to which he belongs will have to sake up his case with the WTO.

SHRI INDER KUMAR GUJRAL: Madam, I am referring to the hon. Minister's written statement laid on She Table. He has made two points and I would like him to elaborate those points. He has said in the first part that he is going to set up an expert group to examine the patent laws. Has the Government also decid d that the framework of this new law, which he is thinking in terms of a new treaty or agreement, whatever it is, needed to be hastened up or will it be towards the end of ten years? Madam, Secondly, we have noticed that the Americans have again come out with the threat of Special 301. Has the hon. Minister taken up either with the intemational agency or with any other Governments that we cannot travel on two tracks at the same time, i.e. bilateral and multilateral and the Damocles sword is hanging on our heads? We are given respite for one month, two months or three months. What is the line of thinking of the Government of India? Is it going to lay prostrate or is it going to stand up and fight?

SHRI PRANAB MUKHERJEE: So far as his first part is concerned, there too we would like to be guided by the advice of experts as to what would be-convenient for us, whether to amend our laws early or to wait for some time. Obviously, we shall have to wait till the WTO comes into existence on 1-1-1995. Madam, certain amendments would be needed for giving a pipeline protection. But there too. what would be the appropriate time to make a comprehensive legislation? We would like to be guided by the advice of experts.

SHRI INDER KUMAR GUJRAL: Not only experts. I want an assurance that you will be guided by the Parliament in that direction.

SHRI PRANAB MUKHERJEE: So-far as the Parliament is concrrned, it i sovereign. After all a law is to be passed by Parliament. Nobody else can pass a law. Who can prevent them from exercising their right to discuss, to debate and to give their sugestions'? 1 would welcome the suggestions. Even if the Standing Committee examines it, I would like to be guided by its advice also.

So far as designating India as a priority country under Special 301 is concerned the hon. Member is well aware that for the last three to four years, it has been-happening. Even last year we were designated as a priority country under Special 301. But no action was taken under Special 301. This year also we have read i s the newspapers that this is being contemplated So far as the domestic sovereign laws are concerned, countries can make their own laws. But if that law causes harm to the interests of other countries. then we have the right to move the WTO to get redressal. So far as our stated position is concerned, I am reiterating it, we always believe that billateral trade disputes are to be settled at the multilateral level, not through unilateral action.

THE DEPUTY CHAIRMAN; Shri Ashok Mitra.

SHRI INDER KUMAR GUJRAL: Ma-dam, please give me one minute. It is a very vital issue. Stating this is one thing. I am sure the hon. Minister's information is not based *on* only what the newspapers haw said. If it to correct then it is a sad sight. If you have checked up with your own mission, then have you been told the

language that has been used? Have you been told that the inquiry under Special 301 has already been completed and only action pending? Shall we move only after the action is taken ? Only when our exports are damaged we shall we go to the very for a very long litigation? In that case the situation that you would be faced with would totally neutralise whatever you are trying to achieve through the WTO.

SHRI PRANAB MUKHERJEE: Madam, there is no question of merely stating the position, his is the stand we have taken. This is the stand which we are going to take. We have made it quite clear. Even when I had bilateral discussions with the US Represent-tative, 1 clearly mentioned that unilateral action had to be reviewed in *the* context of the multilateral trading arranagement which we were going to have. Therefore, there is no quest-ion of merely stating the position. Surely, the senior Member and an experienced former Minister Shri Inder Kumar Gujral, would not expect me to disclose what transpires between a Minister and an Ambassador and what transpires in the Cabinet. That is classified. I am not expected to divulge that.

SHRI ASHOK MITRA ; Madam, our pelents Act of 1970 explicitly statcd that *no foreing* patens were going to be granted in the case of life-saving drugs and food items. I would like to enquire of the hon. Minister whether the Government would give a guideline to the expert group that under no circumstances we are going to accept such foreign patenting. There have been reports that the American Pharmaceutical co-npanies have been lobbying with the American Congressional Groups that in the case of life saving drugs, patents must be granted retrospectively: that is to say, in some cases, it is their demand—that is, not their application or prayer but it is theft demand—that these patents must be granted with effect from 1970,1960 or *1936.* Now, what would be our Goyermnent's, respose to such a de-"mand ?

SHRI PRANAB MUKHERJEE: Madam, in, response to the second part-of the question, our position is that there is. no question of giving any retrospective effect of patents, product patents. Whatever emerges after 1.1.95, we will have to give protection to what we have agreed as far as TRIPS are concerned. Li-response to .... *(Interruptions)*

SHRI ASHOK M1TRA: Suppose they thieatened us with 301, what will be our attitude then?

SHRI PRANAB MUKHERJEE; It is a hypothetical question, Madam. Surely, he cannot expect me to answsr a hypo thetical question. So far as Special 301 is concerned, it is not for the first time tha-there is a threat Special 301 has been applied in certain areas; GSP has been withdrawn and we have accepted it. So, this is not for the first time that the threat of Special 301 is coming. GSP is a voluntary contribution of a country. If they say, "We won't give you", then we would say, "Don't give us". But if they want to have a trade sanc-tion, them we shall go *to* WTO, How-evsr. there has been no trade sanction as yet. So, here has been a withdrawal of the GSP in past. So far as GSP is concerned, it is some sort of a dona tion or charity made by one country to another. If the donor considers, "I will not give you", you cannot claim it as a matter of right But no trade sanction has been put. in.... *(Interruptions) I* am not entering into an argu ment..... (Interruptions)

THE DEPUTY CHAIRMAN; Mr. Ashok Mitra, please, let him first answer your question *X** is not a debate. It is a 'question'... *(Interruptions)* Let him answer. He has not finished.

SHRI.ERANAB MUKHERJEE: There-fore, so far as guidelines to the experts are concernedy I cannot give guide-lines to the expert group that you will have to do this and year will how to-do that When I am going to have an Expert Committee, I *sould like to have* the OPCTION AS TO HOW BEST one can protect our

interests in our way. Issuing guidelines to the administrative authonties would emerge after that. Surely, I cannot ask the experts saying, you give me advice this way. or that way

THE DEPUTY CHAIRMAN: Shri B. S. Mann... (Intemiptons)

SHRI ASHOK MITRA: I would still want to ask the Minister whether he can give us a categorical assurance that under no circumstances would he agree to re-prespective patenting.

THE DEPUTY CHAIRMAN: That, 1 think, he has said.

SHRI ASHOK MITRA; Is it on record that he has said it?

THE DEPUTY CHAIRMAN: You look at the record in the evening or tomorrow and see that.

श्री भूपेन्द्र सिंह मान : उपसभापति महोदय, इंटलक्चुयल प्रापर्टी राइट्स के संबंध में बीज का जो मुद्दा आता है, मंत्री यह बताएं कि क्या इसमें जो नये बीज पेटेंट होंगे. वह लेना दूसरे सभी को जरूरी होंगे, मजबूरी होगी या वह अपनी मर्जी से जो चल रहे हैं वह बो सकते हैं या और यहां पर भी पेटेंट होने की स्वक्को रखते है और हमारे भारत के बीज पेटेंट हो कर दुनियां में जा सकते है? यह मैं जानना चाहता हूं।

SHRI PRANAB MUKHERJEE: Madam, obviously, when the Patent Law is amended, they will have their own rights. So far as the existing seeds are concerned, there is no question of going in for fresh patenting because it is already there in the domain of public knowledge. There are three qualifications that are essential to have a patenting right and one among them is new seeds. If the seeds are already there, where is the question of patenting them? When we amend our laws, our people will have the right of patenting their own seeds.

SHRI S S. SURJEWALA: Madam, what -I would like to tell the hon Minister ter is the one issue which has caused wide-spread apprehension, in the minds, if people in general and farmers in particular is that the seeds and plants are going to be patented and that there will be a lot of restrictions on the use of seeds. The Government has already made it clear that it has not opted for patents as far as-seeds and plants are concernsd. But they are going in for *sui generis* systtem.I would like to ask from the hon. Minister. What will be the salient features of the law of *sui* generis which the Government propose to enact in our country.

SHRI PRANAB MUKHERJEE: Madam, the hon. Member will appreciate that we discussed this question in detail when I replied to a Short-Duration Discussion. So far as the *sui generis* protection is concerned, there is no specific model. And even there was some argument whether we we shall havet to go by UPOV 1978 or UPOV 1991. What we have said in the proposed legislation, is the draft legislation which is under consideration by the Ministry of Agriculture is that by providing sui *generis* protection to the plant breeder, we can see that he gets remuneration for his invention, for the application of his mind, and at the same time, the traditional rights of the farmers for retention, multiplication and exchange and also the rights of the researcher to improve the potected varieties of seeds by genetic engineering, by application of his own mind and for bringing out all other, types of seeds will be fully protected in the legislation.

SHRI DINESHBHAI TRIVEDI; Madam, the entire exercise of reform and liberalisation is based on boosting of exports because on the loans which we have taken, the interest which we have to pay will be paid in foreign exchange, and, therefore the exports have to be boosted.

There is also a feeling that with the multinationals coming to India, there would be a lot of exports out of India. My question pertains to the terminology known as parallel exports. I understand, recently, there was a workshop, seminar, and what have you'm Switzerland where it was made clear tint parallet exports will

not be permitted- In other words, if there! is a owner of a patent in some other country, if some multinational produces the same product in India, the export will not be allowed out of India of that product. Is it true? And if it is true, what is the present status on that?

SHRI PRANAB MUKHERJEE: Madam, the position which the hon. Member has said is not correct.

SHRI SANJAY DALMIA: Madam, I would like to say that so far we are hav ing the process patent in India. And for the first time, the product patent is going to be introduced. What I am trying to ask you is that when you are going to set up an Expert Committee, how you are going to ensure that the indigenous indus try in Ayurvedic sector is protected? I am specially referring to 'neem' and Ayur veda sector white we have been making a lot of products, but we have never taken any patent on that because it was done by very small manufacturers. My question is: Can we have an assurance that while granting product patent for pro ducts of Ayurveda and 'neem', this will be taken into account because, I know soma companies of America are wanting .....

THE DEPUTY CHAIRMAN: Please be brief. If you tell stories, we will never finish this. We are still going on with the second question.

SHRI SANJAY DALMIA; Madam, I am just saying that some companies in ,America are wanting to get patents for 'neem products. And I know that 'neem' products are there in this country for ages. So, *i.* would like to have an assurance that while the whole thing is going to be examined by the expert committee, this aspect of indigenous Ayurvedic medicines will be taken into account.

SHRI PRANAB MUKHERJEE: Madam, so far as the areas of the Expert Group are concerned, definitely I am not going to limit in which areas the; will consider and in which areas they will come out with their suggestions. They can examine all aspects. But so far as the patenting of 'neem' is concerned, what is the position in our laws? We have said that naturally occurring genes should not be patented, micro-organism should net be patented. And in our law, we are going to ensure that these are not patea-ted. If somebody says that he has paten-ted the plant varieties, plant varieties and others cannot be patented. In our laws, if it is not permissible, we will not allow the patenting.

THE DEPUTY. CHAIRMAN: I think, we have had enough on patents Question No. 583.

Demand and supply of com adities for PDS in Andhra Pradesh nad Maharashtra

*583. SHRI TULASIDAS MIAJJI: †

DR SHRIKANT RAMACHAN-DRA JICHKAR:

Will the Minister of CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION be pleased to state:

(a) the demand and supplies of sugar, edible oil, kerosene, and foodgrains for the Public Distribution System in Aadhra Pradesh and Maharashtra during 1993-94; and

(b) what steps are being taken to see that the required supplies are maintained?

THE MINISTER OF CIVIL SUPPLIES. CONSUMER AFFAIRS & PUBLIC DISTRIBUTION (SHRI A. K. ANTONY): (a) and (b). A Statement is laid on the Table of the House.

†The question was actually asked on the floor of the House by Snri Tulsidas Majji.